are not restricted by the provisions of § 740.17(b)(2).

(12) For products which incorporate an open cryptographic interface as defined in part 772 of the EAR, describe the Open Cryptographic Interface.

(d) For review requests regarding components, provide the following additional information:

(1) Reference the application for which the components are used in, if known;

(2) State if there is a general programming interface to the component;

(3) State whether the component is constrained by function; and

(4) Identify the encryption component and include the name of the manufacturer, component model number or other identifier.

(e) For review requests for source code, provide the following information:

(1) If applicable, reference the executable (object code) product that was previously reviewed;

(2) Include whether the source code has been modified, and the technical details on how the source code was modified; and

(3) Include a copy of the sections of the source code that contain the encryption algorithm, key management routines and their related calls.

(f) For step-by-step instructions and guidance on submitting review requests for encryption items, visit our webpage at *www.bis.doc.gov/Encryption* and click on the navigation button labeled ''Guidance''.

[67 FR 38868, June 6, 2002, as amended at 69 FR 71363, Dec. 9, 2004; 70 FR 22249, Apr. 29, 2005]

SUPPLEMENT NO. 7 TO PART 742 [RESERVED]

PART 743—SPECIAL REPORTING

Sec.
743.1 Wassenaar Arrangement.
743.2 High performance computers: Post shipment verification reporting.
SUPPLEMENT NO. 1 TO PART 743—WASSENAAR ARRANGEMENT PARTICIPATING STATES

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; Pub. L. 106–508; 50 U.S.C. 1701 *et seq.*; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006).

SOURCE: 63 FR 2458, Jan. 15, 1998, unless otherwise noted.

§ 743.1 Wassenaar Arrangement.

(a) *Scope.* This section outlines special reporting requirements for exports of certain commodities, software and technology controlled under the Wassenaar Arrangement. Such reports must be submitted to BIS semiannu-

ally in accordance with the provisions of paragraph (f) of this section, and records of all exports subject to the reporting requirements of this section must be kept in accordance with part 762 of the EAR. This section does not require reports for reexports.

NOTE TO PARAGRAPH (a) OF THIS SECTION: For purposes of part 743, the term ''you'' has the same meaning as the term ''exporter'', as defined in part 772 of the EAR.

(b) *Requirements.* You must submit two (2) copies of each report required under the provisions of this section and maintain accurate supporting records (see § 762.2(b) of the EAR) for all exports of items specified in paragraph (c) of this section for the following:

(1) Exports authorized under License Exceptions GBS, CIV, TSR, LVS, APP, and the cooperating government portions (§§ 740.11(b)(2)(iii) and 740.11(b)(2)(iv) of the EAR) of GOV (see part 740 of the EAR). Note that exports of technology and source code under License Exception TSR to foreign nationals located in the U.S. should not be reported; and

(2) Exports authorized under the Special Comprehensive License procedure (see part 752 of the EAR).

(c) *Items for which reports are required.* (1) You must submit reports to BIS under the provisions of this section only for exports of items controlled under the following ECCNs:

(i) *Category 1:* 1A002; 1C007.c and .d; 1C010.c and .d; 1D002 for ''development'' of 1A002, 1C007.c and .d, and 1C010.c and .d; 1E001 for ''development'' and ''production'' of 1A002, 1C007.c and .d, and 1C010.c and .d ; 1E002.e and .f;

(ii) *Category 2:* 2D001 (certain items only; see Note to this paragraph), 2E001 (certain items only; see Note to this paragraph), and 2E002 (certain items only; see Note to this paragraph);

NOTE TO PARAGRAPH (C)(1)(II): *Reports for 2D001,* are for ''software'', other than that controlled by 2D002, specially designed for the ''development'' or ''production'' of the equipment in 2B001.a or .b (changing 6μm to 5.1μm in 2B001.a.1 and 2B001.b.1.a; and adding ''a positioning accuracy with ''all compensations available'' equal to or less (better) than 5.1μm along any linear axis'' to the existing text for 2B001.b.2) of the Commerce Control List (CCL).

Reports for 2E001, are for ''technology'' according to the General Technology Note for

"development" of "software" as described in this paragraph for 2D001, or for the equipment in 2B001.a or .b (changing 6μm to 5.1μm in 2B001.a.1 and 2B001.b.1.a; and adding "a positioning accuracy with "all compensations available" equal to or less (better) than 5.1μm along any linear axis" to the existing text for 2B001.b.2) of the CCL.

Reports for 2E002, are for "technology" according to the General Technology Note for "production" of the equipment in 2B001.a or .b (changing 6μm to 5.1μm in 2B001.a.1 and 2B001.b.1.a; and adding "a positioning accuracy with "all compensations available" equal to or less (better) than 5.1μm along any linear axis" to the existing text for 2B001.b.2) of the CCL.

(iii) *Category 3:* 3A002.g.2, 3B001.a.2, 3D001 for "development" or "production" of 3A002.g.2 or 3B001.a.2, and 3E001 for "development" or "production" of 3A002.g.2 or 3B001.a.2;

(iv) *Category 4:* 4A001.a.2; 4D001 (see paragraph (c)(2) of this section); and 4E001 (see paragraph (c)(2) of this section);

(v) *Category 5:* 5A001.b.3; 5B001.a (items specially designed for 5A001.b.3 and b.5); 5D001.a (specially designed for the "development" or "production" of equipment, function, or features in 5A001.b.3 or 5B001.a as described in this paragraph) and 5D001.b (specially designed or modified to support "technology" under 5E001.a as described in this paragraph); and 5E001.a (for the "development" or "production" of equipment, function, features, or "software" in 5A001.b.3, 5B001.a, 5D001.a or 5D001.b as described in this paragraph);

(vi) *Category 6:* 6A001.a.1.b (changing 10 kHz to 5 kHz and adding the text "or a sound pressure level exceeding 224 dB (reference 1 μPa at 1 m) for equipment with an operating frequency in the band from 5 kHz to 10 kHz inclusive" to the existing text in 6A001.a.1.b.1) , and .a.2.d; 6A002.a.1.a, 6A002.a.1.b, 6A002.a.2.a (changing 350 uA/Im to 700 uA/Im in 6A002.a.2.a.3.a), 6A002.a.3, 6A002.b, 6A002.c, 6A002.e; 6A003.b.3, 6A003.b.4; 6A004.c and .d; 6A006.a, 6A006.d (excluding compensators which provide only absolute values of the earth's magnetic field as output (i.e., the frequency bandwidth of the output extends from DC to at least 0.8 Hz); 6A008.d, .h, and .k; 6D001 (for 6A004.c and .d and 6A008.d, .h, and .k); 6E001 (for equipment and software listed in this paragraph); and 6E002 (for equipment listed in this paragraph);

NOTE TO PARAGRAPH (C)(1)(VI): The reporting requirement for 6A002.a.3 excludes the following "focal plane arrays":

a. Platinum Silicide having less than 10,000 elements;

b. Iridium Silicide;

c. Indium Antimonide or Lead Selenide having less than 256 elements;

d. Indium Arsenide;

e. Lead Sulphide;

f. Indium Gallium Arsenide;

g. Mercury Cadmium Telluride, as follows:

1. 'Scanning Arrays' having any of the following:

a. 30 elements or less; or

b. Incorporating time delay-and-integration within the element and having 2 elements or less;

2. 'Staring Arrays' less than 256 elements;

Technical Notes:

'Scanning Arrays' are defined as "focal plane arrays" designed for use with a scanning optical system that images a scene in a sequential manner to produce an image.

'Staring Arrays' are defined as "focal plane arrays" designed for use with a non-scanning optical system that images a scene.

h. Gallium Arsenide or Gallium Aluminum Arsenide quantum well having less than 256 elements;

(vii) *Category 7:* 7D002; 7D003.c, d.1 to d.4, and d.7; 7E001; and 7E002;

(viii) *Category 8:* 8A001.c; 8A002.b (for 8A001.b, .c, .d), .h, .j, .o.3, and .p; 8D001 (for commodities listed in this paragraph); 8D002; 8E001 (for commodities listed in this paragraph); and 8E002.a; and

(ix) *Category 9:* 9B001.b, 9D001 (for 9B001.b and 9E003 as described in this paragraph), 9D002 (for 9B001.b), 9D004.a, 9D004.c, 9E001 for technology controlled for NS reasons, 9E002, 9E003.a.2, a.3.b, a.3.c, a.4, a.5, a.8, and a.9.

(2) Reports for "software" controlled by 4D001 (that is specially designed), and "technology" controlled by 4E001 (according to the General Technology Note in Supplement No. 2 to part 774 of the EAR) are required for the "development" or "production" of computers controlled under 4A001.a.2, or for the "development" or "production" of

''digital computers'' having an ''Adjusted Peak Performance'' (''APP'') exceeding 0.1 Weighted TeraFLOPS (WT). For the calculation of APP, see the Technical Note for Category 4 in the Commerce Control List (Supplement No. 2 to part 774 of the EAR).

(d) *Country Exceptions.* You must report each export subject to the provisions of this section, except for exports to Wassenaar member countries, as identified in Supplement No. 1 to part 743.

(e) *Information that must be included in each report.* (1) Each report submitted to BIS for items other than those identified in paragraph (e)(2) of this section must include the following information for each export during the time periods specified in paragraph (f) of this section:

(i) Export Control Classification Number and paragraph reference as identified on the Commerce Control List;

(ii) Number of units in the shipment; and

NOTE TO PARAGRAPH (e)(1)(ii): For exports of technology for which reports are required under § 743.1(c) of this section, the number of units in the shipment should be reported as one (1) for the initial export of the technology to a single ultimate consignee. Additional exports of the technology must be reported only when the type or scope of technology changes or exports are made to other ultimate consignees. Additionally, do not report the release of technology or source code subject to the EAR to foreign nationals in the U.S.

(iii) Country of ultimate destination.

(2) [Reserved]

(f) *Frequency and timing of reports.* You must submit reports subject to the provisions of this section semiannually. The reports must be labeled with the exporting company's name and address at the top of each page and must include for each such export all the information specified in paragraph (e) of this section. The reports shall cover exports made during six month time periods spanning from January 1 through June 30 and July 1 through December 31.

(1) The first report must be submitted to and received by BIS no later than August 1, 1998 for the partial reporting period beginning January 15, 1998 and ending June 30, 1998. There-

after, reports are due according to the provisions of paragraphs (f)(2) and (f)(3) of this section.

(2) Reports for the reporting period ending June 30 must be submitted to and received by BIS no later than August 1.

(3) Reports for the reporting period ending December 31 must be submitted to and received by BIS no later than February 1.

(g) *Mailing address and facsimile number:* (1) Two (2) copies of reports required under this section shall be delivered to one of the following addresses. BIS will not accept reports sent C.O.D.

(i) For deliveries by U.S. postal service:

Bureau of Industry and Security, U.S. Department of Commerce, P.O. Box 273, Attn: ''Wassenaar Reports'', Washington, D.C. 20044

(ii) For courier deliveries:

Bureau of Industry and Security, U.S. Department of Commerce, Attn: ''Wassenaar Reports'', Room 2705, 14th Street and Pennsylvania Ave., N.W., Washington, D.C. 20230

(2) Reports may also be sent by facsimile to: (202) 482–3345, Attn: ''Wassenaar Reports''.

(h) *Contacts.* General information concerning the Wassenaar Arrangement and reporting obligations thereof is available from the Office of Strategic Trade and Foreign Policy Controls, Tel. (202) 482–0092, Fax: (202) 482–4094.

[63 FR 2458, Jan. 15, 1998, as amended at 63 FR 55020, Oct. 14, 1998; 63 FR 72165, Dec. 31, 1998; 64 FR 3214, Jan. 21, 1999; 64 FR 40110, July 23, 1999; 64 FR 47105, Aug. 30, 1999; 65 FR 12922, Mar. 10, 2000; 65 FR 34075, May 26, 2000; 65 FR 42568, July 10, 2000; 65 FR 60856, Oct. 13, 2000; 66 FR 461, Jan. 3, 2002; 67 FR 10615, 10610, Mar. 8, 2002; 68 FR 10591, Mar. 5, 2003; 68 FR 68980, Dec. 10, 2003; 70 FR 41102, July 15, 2005; 71 FR 20885, Apr. 24, 2006; 71 FR 52963; Sept. 7, 2006]

§ 743.2 High performance computers: Post shipment verification reporting.

(a) *Scope.* This section outlines special post-shipment reporting requirements for exports of certain computers to destinations in Computer Tier 3, see § 740.7(d) for a list of these destinations.